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**UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF CALIFORNIA**

Anna Quintini

Plaintiff,

v.

Legal Recovery Law Offices, Inc.

Defendant.

Case No: '13CV0522 JAH RBB

Complaint For Damages

Jury Trial Demanded

INTRODUCTION

1. The United States Congress has found abundant evidence of the use of abusive, deceptive, and unfair debt collection practices by many debt collectors, and has determined that abusive debt collection practices contribute to the number of personal bankruptcies, to marital instability, to the loss of jobs, and to invasions of individual privacy. Congress wrote the Fair Debt Collection Practices Act, 15 U.S.C. § 1692 et seq. (hereinafter “FDCPA”), to eliminate abusive debt collection practices by debt collectors, to insure that those debt collectors who refrain from using abusive debt

1 collection practices are not competitively disadvantaged, and to promote
2 consistent State action to protect consumers against debt collection abuses.

3 2. The California legislature has determined that the banking and credit system
4 and grantors of credit to consumers are dependent upon the collection of just
5 and owing debts and that unfair or deceptive collection practices undermine
6 the public confidence that is essential to the continued functioning of the
7 banking and credit system and sound extensions of credit to consumers. The
8 Legislature has further determined that there is a need to ensure that debt
9 collectors exercise this responsibility with fairness, honesty and due regard
10 for the debtor's rights and that debt collectors must be prohibited from
11 engaging in unfair or deceptive acts or practices.

12 3. Anna Quintini, (Plaintiff), through Plaintiff's attorneys, brings this action to
13 challenge the actions of Legal Recovery Law Offices, Inc., ("Defendant"),
14 with regard to attempts by Defendant to unlawfully and abusively collect a
15 debt allegedly owed by Plaintiff, and this conduct caused Plaintiff damages.

16 4. Plaintiff makes these allegations on information and belief, with the exception
17 of those allegations that pertain to a plaintiff, or to a plaintiff's counsel, which
18 Plaintiff alleges on personal knowledge.

19 5. While many violations are described below with specificity, this Complaint
20 alleges violations of the statutes cited in their entirety.

21 6. Unless otherwise stated, all the conduct engaged in by Defendant took place
22 in California.

23 7. Any violations by Defendant were knowing, willful, and intentional, and
24 Defendant did not maintain procedures reasonably adapted to avoid any such
25 violation.

26 JURISDICTION AND VENUE

27 8. Jurisdiction of this Court arises pursuant to 28 U.S.C. § 1331, 15 U.S.C. §
28 1692(k), and 28 U.S.C. § 1367 for supplemental state claims.

1 9. This action arises out of Defendant's violations of the Fair Debt Collection
2 Practices Act, 15 U.S.C. §§ 1692 et seq. ("FDCPA") and the Rosenthal Fair
3 Debt Collection Practices Act, California Civil Code §§ 1788-1788.32
4 ("Rosenthal Act").

5 10. Because Defendant does business within the State of California, personal
6 jurisdiction is established.

7 11. Venue is proper pursuant to 28 U.S.C. § 1391.

8 12. At all times relevant, Defendant conducted business within the State of
9 California.

10 **PARTIES**

11 13. Plaintiff is a natural person who resides in the City of San Diego, State of
12 California.

13 14. Defendant is located in the City of San Diego, in the State of California.

14 15. Plaintiff is obligated or allegedly obligated to pay a debt, and is a "consumer"
15 as that term is defined by 15 U.S.C. § 1692a(3).

16 16. Defendant is a person who uses an instrumentality of interstate commerce or
17 the mails in a business the principal purpose of which is the collection of
18 debts, or who regularly collects or attempts to collect, directly or indirectly,
19 debts owed or due or asserted to be owed or due another and is therefore a
20 debt collector as that phrase is defined by 15 U.S.C. § 1692a(6).

21 17. Plaintiff is a natural person from whom a debt collector sought to collect a
22 consumer debt which was due and owing or alleged to be due and owing from
23 Plaintiff, and is a "debtor" as that term is defined by California Civil Code §
24 1788.2(h).

25 18. Defendant, in the ordinary course of business, regularly, on behalf of himself,
26 herself, or others, engages in debt collection as that term is defined by
27 California Civil Code § 1788.2(b), is therefore a debt collector as that term is
28 defined by California Civil Code § 1788.2(c).

19. This case involves money, property or their equivalent, due or owing or alleged to be due or owing from a natural person by reason of a consumer credit transaction. As such, this action arises out of a consumer debt and “consumer credit” as those terms are defined by Cal. Civ. Code § 1788.2(f).

FACTUAL ALLEGATIONS

20. Sometime before November 14, 2012, Plaintiff is alleged to have incurred certain financial obligations to Wells Fargo Bank, N.A.

21. These financial obligations were primarily for personal, family or household purposes and are therefore a “debt” as that term is defined by 15 U.S.C. §1692a(5).

22. These alleged obligations were money, property, or their equivalent, which is due or owing, or alleged to be due or owing, from a natural person to another person and are therefore a “debt” as that term is defined by California Civil Code §1788.2(d), and a “consumer debt” as that term is defined by California Civil Code §1788.2(f).

23. Sometime thereafter, but before November 14, 2012, Plaintiff allegedly fell behind in the payments allegedly owed on the alleged debt. Plaintiff currently takes no position as to the validity of this alleged debt.

24. Subsequently, but before November 14, 2012, the alleged debt was assigned, placed, or otherwise transferred, to Defendant for collection.

25. On November 14, 2012 Defendant filed a civil action against Plaintiff on behalf of Portfolio Recovery Associates, LLC in the San Diego Superior Court; Case No. 37-2012-85314-CL-CL-CTL.

26. Plaintiff was served with the state court summons on December 2, 2012.

27. On or about December 8, 2012, Defendant mailed a dunning letter to Plaintiff. A few days later, Plaintiff received that letter.

- 1 28. This communication to Plaintiff was a “communication” as that term is
2 defined by 15 U.S.C. § 1692a(2), and an “initial communication” consistent
3 with 15 U.S.C. § 1692g(a).
- 4 29. This communication was a “debt collection” as Cal. Civ. Code 1788.2(b)
5 defines that phrase, and an “initial communication” consistent with Cal. Civ.
6 Code § 1812.700(b).
- 7 30. Defendant’s December 8th, 2012 letter stated that “resolving your account
8 today can avoid service of the lawsuit by our process server, the unnecessary
9 costs of proceeding to trial, and can avoid our office obtaining a judgment
10 against you.”
- 11 31. This letter was intended to imply, and plaintiff believed, that if the debt was
12 paid pursuant to the instructions of the December 8, 2012 letter that she could
13 avoid a lawsuit as well as the embarrassment of a public record regarding a
14 lawsuit.
- 15 32. Being sued is a serious event to most people, and usually carries with it a
16 great deal of embarrassment. The least sophisticated consumer would change
17 their actions in order to avoid being sued if possible.
- 18 33. This letter was extremely confusing, as Plaintiff had already been served with
19 legal papers. Before receiving the December 8th, 2012 letter Plaintiff believed
20 that there was a lawsuit filed against her, but once she read the letter, she
21 didn’t know whether she had been sued or not.
- 22 34. The documents that she was given on December 2, 2012 (Summons and
23 Complaint) were confusing enough, but the December 8, 2012 letter was
24 intended to confuse and mislead Plaintiff.
- 25 35. Overall, the impression this letter gave to Plaintiff was that if she paid, she
26 wouldn’t be sued, and could avoid the hassle, stress, and embarrassment of a
27 lawsuit and/or judgement if she paid. It was not until a week later that
28

1 Plaintiff learned that she needed contact counsel to figure out what was really
2 going on.

- 3 36. Through this conduct, Defendant used a false, deceptive, or misleading
4 representation or means in connection with the collection of a debt.
5 Consequently, Defendant violated 15 U.S.C. § 1692e and 15 U.S.C. §
6 1692e(10).

7 **CAUSES OF ACTION**

8 **COUNT I**

9 **FAIR DEBT COLLECTION PRACTICES ACT (FDCPA)**

10 **15 U.S.C. §§ 1692 ET SEQ.**

- 11 37. Plaintiff repeats, re-alleges, and incorporates by reference, all other
12 paragraphs.

- 13 38. The foregoing acts and omissions constitute numerous and multiple violations
14 of the FDCPA, including but not limited to each and every one of the above-
15 cited provisions of the FDCPA, 15 U.S.C. § 1692 et seq.

- 16 39. As a result of each and every violation of the FDCPA, Plaintiff is entitled to
17 any actual damages pursuant to 15 U.S.C. § 1692k(a)(1); statutory damages in
18 an amount up to \$1,000.00 pursuant to 15 U.S.C. § 1692k(a)(2)(A); and,
19 reasonable attorney's fees and costs pursuant to 15 U.S.C. § 1692k(a)(3) from
20 Defendant.

21 **COUNT II**

22 **ROSENTHAL FAIR DEBT COLLECTION PRACTICES ACT (ROSENTHAL ACT)**

23 **CAL. CIV. CODE §§ 1788-1788.32**

- 24 40. Plaintiff repeats, re-alleges, and incorporates by reference, all other
25 paragraphs.

- 26 41. The foregoing acts and omissions constitute numerous and multiple violations
27 of the Rosenthal Act, including but not limited to each and every one of the
28 above-cited provisions of the Rosenthal Act, Cal. Civ. Code §§ 1788-1788.32

42. As a result of each and every violation of the Rosenthal Act, Plaintiff is entitled to any actual damages pursuant to Cal. Civ. Code § 1788.30(a); statutory damages for a knowing or willful violation in the amount up to \$1,000.00 pursuant to Cal. Civ. Code § 1788.30(b); and reasonable attorney's fees and costs pursuant to Cal. Civ. Code § 1788.30(c) from Defendant.

PRAYER FOR RELIEF

WHEREFORE, Plaintiff prays that judgment be entered against Defendant, and Plaintiff be awarded damages from Defendant, as follows:

- An award of actual damages pursuant to 15 U.S.C. § 1692k(a)(1);
- An award of statutory damages of \$1,000.00 pursuant to 15 U.S.C. § 1692k(a)(2)(A);
- An award of costs of litigation and reasonable attorney's fees, pursuant to 15 U.S.C. § 1692k(a)(3);
- An award of actual damages pursuant to California Civil Code § 1788.30(a);
- An award of statutory damages of \$1,000.00 pursuant to Cal. Civ. Code § 1788.30(b);
- An award of costs of litigation and reasonable attorney's fees, pursuant to Cal. Civ. Code § 1788.30(c).

43. Pursuant to the seventh amendment to the Constitution of the United States of America, Plaintiff is entitled to, and demands, a trial by jury.

Respectfully submitted,

Hyde & Swigart

Date: 3/5/13

By: /s/Jessica R. K. Dorman
Jessica R. K. Dorman
Attorneys for Plaintiff